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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,092	11/05/2001	James H. Bucksbee	IR-2860(MT)	9463

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LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY, NC 27512

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,092

Applicant(s)

BUCKSBEE, JAMES H.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,9-12,15 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,9-12,15 and 17-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/10/05 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, 11, 12, 15, 17, 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by DE-1650926 (DE'926).

Re: claims 1, 4, 6, 11, 12, 15, 17, 22, 23, 25, and 26. DE '926 shows in figure 3 a mount comprising a rigid housing, the housing having a hollow barrel with a central axis and a first end and an opposing second end, the hollow barrel shown in the area of element 17 defining a first chamber in which upper element 7b is located proximate the hollow barrel first end, a second chamber in which lower element 7b is located proximate the hollow barrel second end, and a seat opening communicating between the first chamber and the second chamber, the seat opening between the hollow barrel

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first end and the hollow barrel second end, with the first chamber, the seat opening and the second chamber aligned along the hollow barrel central axis, the first chamber having a first chamber mouth shown at the top of the first chamber and a first chamber seat end shown at the bottom of the first chamber with the first chamber mouth proximate the hollow barrel first end and the first chamber seat end proximate the seat opening, the first chamber having a conically contoured wall inwardly tapered from the first chamber mouth to the first chamber seat end as shown, the second chamber having a second chamber mouth shown at the bottom of the second chamber and a second chamber seat end shown at the top of the second chamber with the second chamber mouth proximate the hollow barrel second end and the second chamber seat end proximate the seat opening, the second chamber having a conically contoured wall inwardly tapered from the second chamber mouth to the second chamber seat end as shown, a load bearing member upper 7b,18, the load bearing member having a load bearing mouth end and a load bearing seat end, the load bearing member comprised of a molding bonded outer resilient member upper 7b bonded to an inner rigid member 18, the load bearing member inner rigid member having a support surface proximate the load bearing mouth end and an opposing contact surface proximate the load bearing seat end, the load bearing member inner rigid member 18 having an inwardly directed taper from the support surface to the contact surface as shown, the load bearing member outer resilient member having an unbounded outer surface distal from the inner rigid member, the load bearing member outer resilient member unbonded surface having an inwardly directed taper proximate the load bearing seat end as shown, the

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load bearing member outer resilient member unbonded outer surface inwardly directed taper and the load bearing member inner rigid member inwardly directed taper, a rebound member lower 7b, 19, the rebound member having a rebound mouth end and a rebound seat end, the rebound member comprised of a molding bonded outer resilient member lower 7b bonded to an inner rigid member 19, the rebound member inner rigid member having a support surface proximate the rebound mouth end and an opposing contact surface proximate the rebound seat end, the rebound member inner rigid member having an inwardly directed taper from the support surface to the contact surface, the rebound member outer resilient member having an unbonded outer surface distal from the inner rigid member, the rebound member outer resilient member unbonded outer surface having an inwardly directed taper proximate the rebound seat end, as shown the rebound member outer resilient member having a resilient portion between the rebound member outer resilient member unbonded outer surface inwardly directed taper and the rebound member inner rigid member inwardly directed taper, and a coupling member 20, the coupling member drawing the load bearing member inner rigid member and the rebound member inner rigid member together along the rigid housing hollow barrel central axis through the rigid housing hollow barrel seat opening wherein the load bearing member inner rigid member contact surface and the rebound member inner rigid member contact surface are in abutment, particularly with elements 21 and 22, respectively, and the load bearing member outer resilient member inwardly directed taper unbonded outer surface seated against the first chamber inwardly tapered wall, the load bearing member outer resilient member resilient portion

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precompressed between the load bearing member inner rigid member inwardly directed taper and the first chamber inwardly tapered wall, and the rebound member outer resilient member inwardly directed taper unbonded outer surface seated against the second chamber inwardly tapered wall, the rebound member outer resilient member resilient portion precompressed between the rebound member inner rigid member inwardly directed taper and the second chamber inwardly tapered wall.

Re: claim 24. DE '926 shows in figure 3 the limitation wherein the load bearing member comprises a plurality of alignment members or nut and washer shown above element 18 along the support surface.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 10, 18, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '926.

Re: claims 9 and 10. DE '926 describes the invention substantially as set forth Above, but does not include the specific limitation regarding the material of the resilient members being the same or different. Since Applicant failed to provide an explanation of criticality regarding the resilient materials being the same or different. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the resilient members to have been composed of the same or different

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material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Re: claim 18. DE '926 describes the invention substantially as set forth Above including the limitation of the housing further comprising a mount base shown on the right side of the housing, but does not include the specific limitation of the housing being unitary. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the housing of DE '926 to have been formed in a unitary manner since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 US 164 (1893).

Re: claim 19. DE'926 describes the invention substantially as set forth above but does not include the limitation of the mount base specifically being H-shaped. In In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) the court held that the configuration of a claimed object was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration produced an unexpected result. Since Applicant failed to provide an explanation of criticality associated with the mount base being H-shaped, Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mount base of DE '926 to have been H-shaped to provide an alternate functionally equivalent means of attaching the mount to a surrounding structure.

Re: claim 21. DE '926 show in figure 3 the limitation wherein the mount further comprises a plurality of arms or left and right projections shown in the area of element 24, the arms extend between the mount base and the barrel as shown.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE '926 in view of US Patent 5174552 to Hodgson et al.

DE '926, as modified, describes the invention substantially as set forth above, but does not include the limitation of the mount base specifically including at least three attachment flanges .

Hodgson et al. teach in figure 1 the use of a mount base 12 comprising at least three attachment flanges 32.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mount base of DE '926, as modified, with at least three attachment flanges, as taught by Hodgson et al., in order to provide a means of more securely attaching the mount base to a surrounding structure.

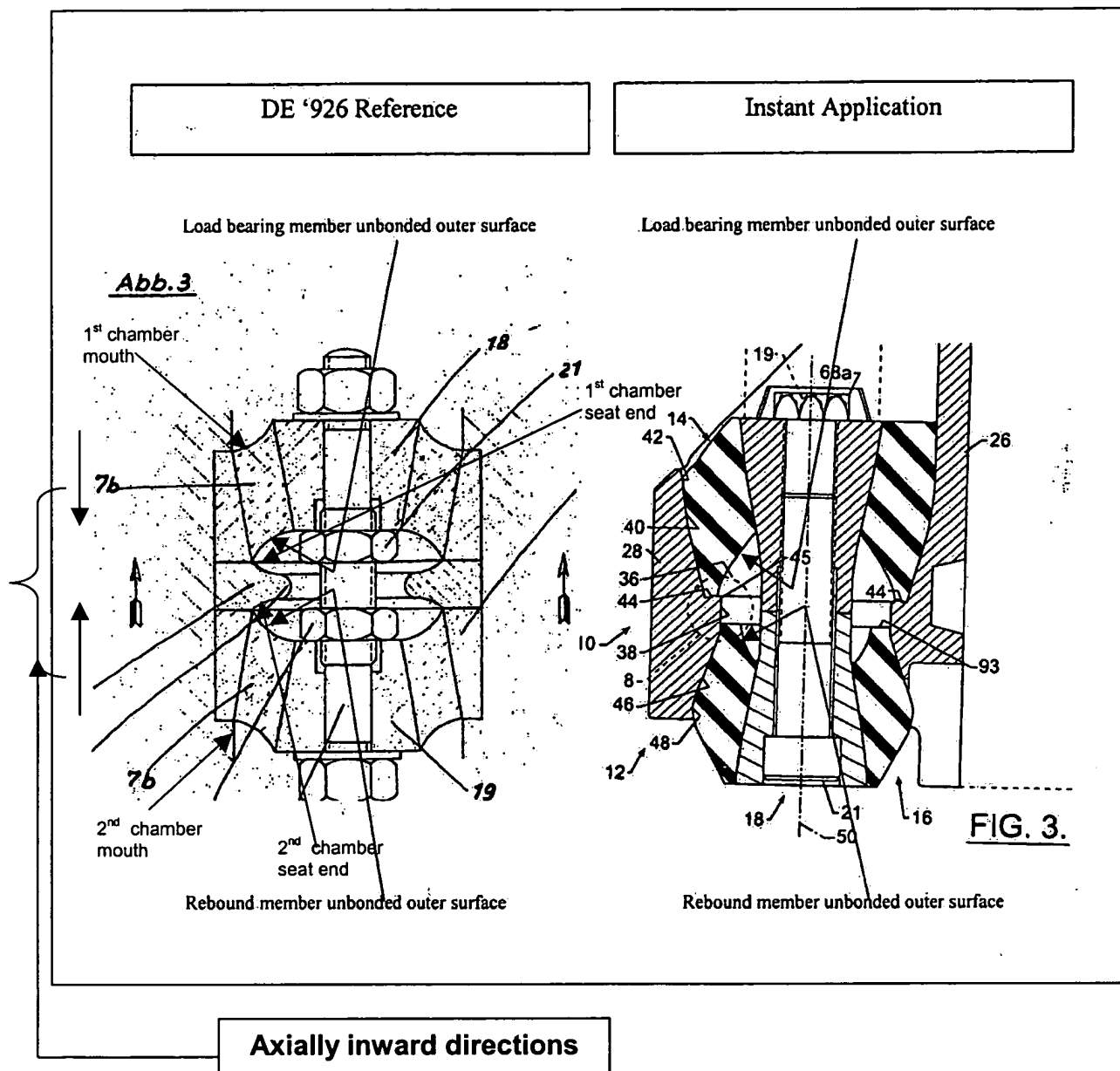
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Response to Arguments

7. Applicant's arguments filed 7/16/04 have been fully considered but they are not persuasive.



Applicant argues that the unbonded outer surfaces of DE '926 are outwardly tapered in the direction of the mouth to the seat end. Examiner disagrees. As shown in figure 3 of the DE '926 reference labeled above the load bearing member outer resilient member unbonded outer surface is axially inwardly tapered in a direction from the first chamber mouth to the first chamber seat end. Similarly, the rebound member outer resilient member unbonded outer surface is axially inwardly tapered in a direction from the second chamber mouth to the second chamber seat. Examiner has labeled the axially inward directions on page 9 and notes that the claim language does not preclude the inward direction from meaning an axial inward direction. Accordingly, the rejections have been maintained.

Conclusion

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 25, 2005

Melody M. Burch
3/25/05